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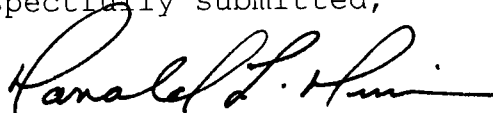
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application of:]
AEC PARTNERS SAS]
Serial No.: 76/669,634] Law Office: 106
Filed: November 28, 2006] Attorney: Domenic J. Salemi
Mark: **AEC PARTNERS and Design**]

REQUEST FOR ORAL HEARING

An oral hearing is requested by the Appellant in the
above-identified ex parte Appeal in accordance with 37 C.F.R.
§2.142(e) (1).

Respectfully submitted,



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02-26-2008

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APPELLANT'S BRIEF ON APPEAL

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STATUTES

	<u>Pages</u>
15 U.S.C. §1141(f) [Sec. 66(a)].....	3, 4
15 U.S.C. §1126(d) [Sec. 44(d)].....	4
37 C.F.R. §2.71	5

Appellant has appealed from the Examining Attorney's final refusal to register the above-identified trademark, as amended, dated December 18, 2007 and respectfully requests the Trademark Trial and Appeal Board to reverse the Examiner's decision.

An oral hearing is being requested by a separate notice filed concurrently herewith.

THE REFUSAL TO ALLOW AMENDMENT

The Application was filed with a claim to Convention Priority if French Application No. 005329677 dated September 21, 2006. When counsel received a certified copy of the foreign registration, it was noted that while the Serial No. was correct, it was in fact a European Community Application (CTM) and not a French registration.

On September 10, 2007, counsel submitted an Amendment to change the country of priority from "France" to the "European Community".

In a Suspension Notice of October 12, 2007, the Examining Attorney *incorrectly* indicated that Applicant "has amended the application filing basis to Trademark Act Sec, 66(a)" and refused to allow the change.

Despite Responses of October 23, 2007, November 26, 2007, and January 2, 2008 as well as a telephone conference with the Examining Attorney, his position remains unchanged and he still insists in the most recent and Final Action that Applicant is attempting to Amend the application to "a Madrid Sec. 66(a) basis".

ARGUMENT

Applicant is not seeking to change the filing basis from one section of the law to another, but merely to correct a typographical error in the name of the convention country. The filing number and filing date were correct *ab initio*. The application is still based upon 15 U.S.C. §1126(d). Applicant has never sought or claimed a Section 66(a) Madrid basis¹. Such a basis occurs when applicant seeks to extend protection under an existing International registration to the United States under the Madrid Protocol. This is clearly not the case here.

Appendix "B" to the TMEP clearly indicated that a European Community Trademark application can serve as a basis for a Convention Priority claim the same as other individual countries under Section 44(d). This Appendix clearly states

¹ 37 C.F.R. §7.25(b); 15 U.S.C. §1141(f)

that "A foreign applicant may seek registration in the United States based on either (a) a valid CTM registration, or (b) a CTM application, with a right of priority if the United States application is filed within six months of the date of the first filing of the CTM application". For all practical purposes the CTM is treated the same as a separate country.


Applicant is not seeking to change the filing basis, only to amend the country name to correct an initial error or informality as permitted by 37 C.F.R. §2.71.

CONCLUSION

For the reasons stated above, the Board is respectfully requested to reverse the Examining Attorney's decision refusing to permit Amendment to the name of the Convention Priority country.

February 26, 2008

Respectfully Submitted,
AEC PARTNERS SAS

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